

## Senate Bill No. 1441

### CHAPTER 159

An act to add Section 679.05 to the Penal Code, relating to domestic violence.

[Approved by Governor July 15, 2004. Filed with  
Secretary of State July 16, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1441, Kuehl. Domestic violence: victims.

Existing law sets forth certain rights of victims of, and witnesses to, crime. Existing law provides that the victim of sexual assault or spousal rape has the right to have advocates present at any evidentiary, medical, or physical examination or interview by law enforcement authorities or defense attorneys, as specified.

This bill would provide that a victim of domestic violence or abuse has the right to have a domestic violence counselor and a support person of his or her choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys, as specified, and shall be notified orally or in writing by the attending law enforcement authority or district attorney of that right prior to the commencement of an initial interview.

Because this bill would require local officials to perform additional duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 679.05 is added to the Penal Code, to read:

679.05. (a) A victim of domestic violence or abuse, as defined in Sections 6203 or 6211 of the Family Code, or Section 13700 of the Penal Code, has the right to have a domestic violence counselor and a support



person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement authority or the district attorney determines that the presence of that individual would be detrimental to the purpose of the interview. As used in this section, "domestic violence counselor" is defined in Section 1037.1 of the Evidence Code.

(b) (1) Prior to the commencement of the initial interview by law enforcement authorities or the district attorney pertaining to any criminal action arising out of a domestic violence incident, a victim of domestic violence or abuse, as defined in Sections 6203 or 6211 of the Family Code, or Section 13700 of this code, shall be notified orally or in writing by the attending law enforcement authority or district attorney that the victim has the right to have a domestic violence counselor and a support person of the victim's choosing present at the interview or contact. This subdivision applies to investigators and agents employed or retained by law enforcement or the district attorney.

(2) At the time the victim is advised of his or her rights pursuant to paragraph (1), the attending law enforcement authority or district attorney shall also advise the victim of the right to have a domestic violence counselor and a support person present at any interview by the defense attorney or investigators or agents employed by the defense attorney.

(c) An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for purposes of this section.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

